

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC. APPLICATION No. 4763 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BANSILAL SITABSINH PARMAR

Versus

STATE OF GUJARAT

Appearance:

MR RS SANJANWALA for Petitioners
MS VALIKARIMWALA APP for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 27/11/98

ORAL JUDGEMENT

Heard learned advocate Mr. Sanjanwala for the applicants and learned APP Ms. Valikarimwala for the respondents.

2. This is an application under Section 482 CrPC, preferred by the accused in a Criminal Complaint lodged in Dahod [Rural] Police Station and registered as C.R No. 205/98. It appears that the complainant - one Shri S.K Ambegaonkar, the Police Sub-Inspector while on patrol duty intercepted a truck bearing registration no. MBW-1075 and found that it was carrying 12000 kg. (120 Quintals) gur from the State of M.P. The truck and the goods carried were seized and an offence punishable under Section 70A and 81 of the Bombay Prohibition Act; as aforesaid, has been registered against the present applicants.

3. Mr. Sanjanwala has argued that the said muddamal was being transported from the State of MP to the Union Territory of Daman and transporting such goods through the territories of the State of Gujarat is not prohibited by any law or order made under the Bombay Prohibition Act. In support of his contention, Mr. Sanjanwala has relied upon the documents annexed at Annexure "C" collectively to Annexure "H" which tend to show that the goods were transported from Sihor in Madhya Pradesh and they were permitted to be transported out of Madhya Pradesh, and that they were being transported through Madhya Pradesh Transport Company to the Union Territory of Daman. Hence, it is apparent that goods seized were in transit and were to be transported to the Union Territory of Daman, through the territory of State of Gujarat. Mr. Sanjanwala has also relied upon several orders made in similar matters by various Benches of this Court. In view of these precedents, this application is allowed. The offence registered as CR No. 205/98 in Dahod [Rural] Police Station is hereby quashed. The goods seized i.e., muddamal truck bearing registration no. MBW-1705 and the goods transported through the said truck be released, subject to an undertaking to be given to this Court that the goods shall not be stored or used or consumed in the territories of Gujarat and shall be taken to the Union Territory of Daman. Rule is made absolute accordingly. There shall be no order as to costs.
